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3
4 Hon. Robert J. Bryan
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

9 DEMOND LAVELLE BABB, a single
10 person,

11 Plaintiff,

12 vs.

13 CITY OF TACOMA, a Washington
14 Municipal Corporation; "JOHN DOES 1-2"
15 and "JANE DOES 1-2", husbands and wives;
16 CITY OF FIFE, a Washington Municipal
Corporation; "JOHN DOES 3-7" and "JANE
DOES 3-7", husbands and wives; SOUTH
CORRECTIONAL ENTITY, a Washington
Municipal Corporation; and "JOHN DOES
8-15" and "JANE DOES 8-15", husbands and
wives,

17 Defendants.

18
19 No. 3:18-cv-05215-RJB-DWC

20 SOUTH CORRECTIONAL ENTITY
21 DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES

22 Comes now defendants South Correctional Entity, John Does 8-15, and Jane Does 8-15
23 (hereinafter "SCORE"), through its attorneys, and in answer to plaintiff's complaint admits,
24 denies, and alleges as follows.

25 **I. PARTIES, JURISDICTION, AND VENUE**

26 1.1 Defendants SCORE are without knowledge of the truth or falsity of the
27 allegations contained in paragraphs 1.1 of plaintiff's complaint and therefore deny the same.

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30 SOUTH CORRECTIONAL ENTITY DEFENDANTS'
ANSWER AND AFFIRMATIVE DEFENSES - 1
31 3:18-cv-05215-RJB-DWC
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1 1.2 Defendants SCORE are without knowledge of the truth or falsity of the
2 allegations contained in paragraphs 1.2 of plaintiff's complaint and therefore deny the same.
3

4 1.3 The allegations contained in paragraph 1.3 of plaintiff's complaint are not
5 directed to Defendants SCORE, and therefore, Defendants SCORE make no answer thereto.
6

7 1.4 Defendants SCORE are without knowledge of the truth or falsity of the
8 allegations contained in paragraphs 1.4 of plaintiff's complaint and therefore deny the same.
9

10 1.5 The allegations contained in paragraph 1.5 of plaintiff's complaint make no
11 allegations directed to Defendants SCORE, and therefore, Defendants SCORE make no answer
12 thereto.
13

14 1.6 Defendants SCORE are without knowledge of the truth or falsity of the
15 allegations contained in paragraphs 1.6 of plaintiff's complaint and therefore deny the same.
16

17 1.7 Defendant SCORE admits it is a Washington Municipal Corporation.
18 Defendants SCORE deny the remainder of the allegations on the basis that they call for a legal
19 conclusion and reference a written agreement that speaks for itself.
20

21 1.8 Defendants SCORE deny the allegations contained in paragraph 1.8 of
22 plaintiff's complaint.
23

24 1.9 Defendants SCORE are without knowledge of the truth or falsity of the
25 allegations contained in paragraphs 1.9 of plaintiff's complaint and therefore deny the same.
26

27 1.10 Defendants SCORE are without knowledge of the truth or falsity of the
28 allegations contained in paragraphs 1.10 of plaintiff's complaint and therefore deny the same.
29

30 1.11 Defendants SCORE deny the allegations contained in paragraph 1.11 of
31 plaintiff's complaint as conclusions of law.
32

33 1.12 Defendants SCORE deny the allegations contained in paragraph 1.12 of
34 plaintiff's complaint as conclusions of law.
35

II. FACTS

2.1 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.1 of plaintiff's complaint and therefore deny the same.

2.2 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.2 of plaintiff's complaint and therefore deny the same.

2.3 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.3 of plaintiff's complaint and therefore deny the same.

2.4 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.4 of plaintiff's complaint and therefore deny the same.

2.5 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.5 of plaintiff's complaint and therefore deny the same.

2.6 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.6 of plaintiff's complaint and therefore deny the same.

2.7 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.7 of plaintiff's complaint and therefore deny the same.

2.7(sic) Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.7(sic) of plaintiff's complaint and therefore deny the same.

2.8 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.8 of plaintiff's complaint and therefore deny the same.

2.9 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.9 of plaintiff's complaint and therefore deny the same.

2.10 Defendants SCORE are without knowledge of the truth or falsity of the allegations contained in paragraphs 2.10 of plaintiff's complaint and therefore deny the same.

SOUTH CORRECTIONAL ENTITY DEFENDANTS'
ANSWER AND AFFIRMATIVE DEFENSES - 3
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LEE SMART
P.S., Inc. • Pacific Northwest Law Offices
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1 2.11 Defendants SCORE are without knowledge of the truth or falsity of the
2 allegations contained in paragraphs 2.11 of plaintiff's complaint and therefore deny the same.
3

4 2.12 Defendants SCORE admit plaintiff was transported from the Fife Jail to SCORE
5 where he was booked into the facility. Defendants SCORE are without knowledge of the truth
6 or falsity of the remaining allegations related to the existence of Plaintiff's backpack and
7 medications, but have no record of receiving plaintiff's backpack or medications upon his
8 booking, and therefore deny the same.

9 2.13 Defendants SCORE admit the plaintiff underwent a medical intake screening
10 during which the plaintiff reported having a seizure disorder. Plaintiff identified a previous
11 medical provider. Defendants SCORE deny the remaining allegations contained in paragraph
12 2.13 of plaintiff's complaint.

13 2.14 Defendants SCORE admit the plaintiff was assigned to housing with video
14 monitoring and a call button, as all cells at SCORE have video monitoring and a call button.
15 Defendants SCORE deny the remainder of the allegations in paragraph 2.14 of plaintiff's
16 compliant.

17 2.15 Defendants SCORE admit plaintiff was housed in a cell monitored by video
18 camera. Defendants SCORE deny plaintiff's allegations related to the video on the basis that
19 any video recording of plaintiff's cell speaks for itself. Defendants SCORE further deny the
20 remainder of plaintiff's allegations contained in paragraph 2.15 of plaintiff's complaint.

21 2.16 Defendants SCORE admit plaintiff was in custody from 20:52 on December 25,
22 2014 to 20:32 on December 30, 2014. Defendants SCORE deny the remaining allegations
23 within paragraph 2.16 of plaintiff's complaint.

24 2.17 Defendants SCORE are without knowledge of the truth or falsity of the
25 allegations contained in paragraphs 2.17 of plaintiff's complaint and therefore deny the same.

1 2.18 Defendants SCORE are without knowledge of the truth or falsity of the
2 allegations contained in paragraphs 2.18 of plaintiff's complaint and therefore deny the same.
3

4 2.19 Defendants SCORE are without knowledge of the truth or falsity of the
5 allegations contained in paragraphs 2.19 of plaintiff's complaint and therefore denies the same.
6

7 2.20 Defendant SCORE is without knowledge of the truth or falsity of the allegations
8 contained in paragraphs 2.20 of plaintiff's complaint and therefore denies the same.
9

10 2.21 Defendant SCORE denies the allegations contained in paragraph 2.21 of
11 plaintiff's complaint.
12

III. FIRST CAUSE OF ACTION – Tort of Outrage

City of Tacoma and “John Does 1-2”

13 3.1 Defendants SCORE incorporate its response to paragraphs 1.1-2.21(sic) as
14 though fully set forth herein.
15

16 3.2 The allegations contained in paragraph 3.2 of plaintiff's complaint make no
17 allegations directed to Defendants SCORE, and therefore, a response is not required from
18 Defendants SCORE.
19

20 3.3 The allegations contained in paragraph 3.3 of plaintiff's complaint make no
21 allegations directed to Defendants SCORE, and therefore, a response is not required from
22 Defendants SCORE.
23

24 3.4 The allegations contained in paragraph 3.4 of plaintiff's complaint make no
25 allegations directed to Defendants SCORE, and therefore, a response is not required from
Defendants SCORE.
26

IV. SECOND CAUSE OF ACTION-Negligent Infliction of Emotional Distress

CITY OF TACOMA AND “JOHN DOES 1-2”

4.1 Defendants SCORE incorporate its response to paragraphs 1.1-2.21(sic) as though fully set forth herein.

4.2 The allegations contained in paragraph 4.2 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

4.3 The allegations contained in paragraph 4.3 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

V. THIRD CAUSE OF ACTION-Tort of Outrage

CITY OF FIFE, "JOHN DOES 3-7" and CITY OF TACOMA

5.1 Defendants SCORE incorporates its response to paragraphs 1.1-2.21(sic) as though fully set forth herein.

5.2 The allegations contained in paragraph 5.2 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

5.3 The allegations contained in paragraph 5.3 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

5.4 The allegations contained in paragraph 5.4 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

5.5 The allegations contained in paragraph 5.5 of plaintiff's complaint make no allegations directed to Defendants SCORE, and therefore, a response is not required from Defendants SCORE.

1 **VI. FOURTH CAUSE OF ACTION—Negligent Infliction of Emotional Distress**
2 **“JOHN DOES 3-7”, CITY OF FIFE and CITY OF TACOMA**

3 6.1 Defendants SCORE incorporates its response to paragraphs 1.1-2.21(sic) as
4 though fully set forth herein.

5 6.2 The allegations contained in paragraph 6.3 of plaintiff's complaint make no
6 allegations directed to Defendants SCORE, and therefore, a response is not required from
7 Defendants SCORE.

8 6.4 The allegations contained in paragraph 6.4 of plaintiff's complaint make no
9 allegations directed to Defendants SCORE, and therefore, a response is not required from
10 Defendants SCORE.

11 **VII. FIFTH CAUSE OF ACTION—Tort of Outrage**
12 **“JOHN DOES 8-15”; SOUTH CORRECTIONAL ENTITY and CITY OF TACOMA**

13 7.1 Defendants SCORE incorporates its response to paragraphs 1.1-2.21(sic) as
14 though fully set forth herein.

15 7.2 Defendants SCORE deny the allegations contained in paragraph 7.2 of
16 plaintiff's complaint.

17 7.3 Defendants SCORE deny the allegations contained in paragraph 7.3 of
18 plaintiff's complaint.

19 7.4 Defendants SCORE denies the allegations contained in paragraph 7.4 of
20 plaintiff's complaint.

21 7.5 The allegations contained in paragraph 7.5 of plaintiff's complaint make no
22 allegations directed to Defendants SCORE, and therefore, a response is not required from
23 Defendants SCORE. To the extent a response is required, Defendants SCORE deny the same.

1 **VIII. SIXTH CAUSE OF ACTION—Negligent Infliction of Emotional Distress**
2 **“JOHN DOES 8-15”; SOUTH CORRECTIONAL ENTITY and CITY OF TACOMA**

3 8.1 Defendants SCORE incorporate its response to paragraphs 1.1-2.21(sic) as
4 though fully set forth herein.

5 8.2 Defendants SCORE deny the allegations contained in paragraph 8.2 of
6 plaintiff's complaint.

7 8.3 The allegations contained in paragraph 8.3 of plaintiff's complaint make no
8 allegations directed to Defendants SCORE, and therefore, a response is not required from
9 Defendant SCORE. To the extent a response is required, Defendants SCORE deny the same.

10 8.4 The allegations contained in paragraph 8.4 of plaintiff's complaint make no
11 allegations directed to Defendant SCORE, and therefore, a response is not required from
12 Defendant SCORE. To the extent a response is required, Defendants SCORE deny the same.

13 **IX. SEVENTH CAUSE OF ACTION—Violation of Rights under the Eighth**
14 **Amendment, 42 USC §1983**

15 **“JOHN DOES 8-15”**

16 9.1 Defendants SCORE incorporates its response to paragraphs 1.1-2.21(sic) as
17 though fully set forth herein.

18 9.2 Defendants SCORE deny the allegations contained in paragraph 9.2 of
19 plaintiff's complaint.

20 **X. PRAYER FOR RELIEF**

21 Answering plaintiff's Prayer for Relief, and all subparagraphs contained therein,
22 Defendants SCORE deny plaintiff is entitled to relief of any kind.

23 **XI. AFFIRMATIVE DEFENSES**

24 By way of FURTHER ANSWER and AFFIRMATIVE DEFENSES, Defendants
25 SCORE allege:

- 1 1. Plaintiff has failed to state a claim upon which relief can be granted.
- 2 2. The qualified immunity precludes plaintiff's claims.
- 3 3. The public duty doctrine precludes plaintiff's claims.
- 4 4. Plaintiff's claimed injuries and damages, if any, were caused in whole or in part by
- 5 plaintiff's own negligence and/or fault.
- 6 5. Plaintiff's claimed injuries and damages, if any, were caused in whole or in part by
- 7 persons or entities over whom defendant had no right of control.
- 8 6. Plaintiff failed to mitigate his damages, if any.
- 9 7. Plaintiff's claims are barred by the applicable statute of limitations.
- 10 8. Defendant SCORE cannot be held liable under Plaintiff's 42 USC §1983 claim
- 11 solely on a respondeat superior theory.
- 12 9. Plaintiff's claims are barred by Plaintiff's failure to comply with RCW 4.96.020.

14 **XII. RESERVATION OF RIGHTS**

15 Defendant reserves the right to plead further answer, affirmative defenses,
16 counterclaims, and/or third-party claims as investigation and discovery may warrant.

17 **XIII. PRAYER FOR RELIEF**

18 WHEREFORE, having answered plaintiff's complaint, defendants pray for relief as
19 follows:

- 20 1. That plaintiff's Complaint be dismissed with prejudice and that plaintiff
21 takes nothing thereby;
- 22 2. That defendants be awarded judgment on its costs and attorneys' fees
23 incurred in the defense of this action; and
- 24 3. For such other and further relief as this Court deems just and equitable.

25 DATED this 2nd day of May, 2018.

SOUTH CORRECTIONAL ENTITY DEFENDANTS'
ANSWER AND AFFIRMATIVE DEFENSES - 9
3:18-cv-05215-RJB-DWC
6278381

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2
3 By: 
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6 Of Attorneys for Defendants
7 South Correctional Entity, John Does 8-15
8 and Jane Does 8-15
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SOUTH CORRECTIONAL ENTITY DEFENDANTS'
ANSWER AND AFFIRMATIVE DEFENSES - 10
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CERTIFICATE OF SERVICE

I certify under penalty of perjury of the laws of the State of Washington that on the date shown below a copy of the foregoing was served via ECR on the following counsel of record:

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DATED this 2nd day of May, 2018.

Vonnie Fredlund
Vonnie Fredlund